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Book Reviews

John R. Rood
University of Michigan Law School

Gordon Stoner
University of Michigan Law School

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BOOK REVIEWS

THE TORRENS SYSTEM. A manual of the Uniform Land Registration Act in Virginia, to which is appended the Annotated Act, Proposed Rules of Court, and a complete System of Forms—Eugene C. Massie, Richmond, Virginia. Everett Waddey Co., 1916. pp. xvii, 206.

This little volume is of more than passing interest. It is not merely a handbook to aid in the interpretation and application of the Torrens Law recently adopted in Virginia. Virginia is the first state to adopt the Uniform Torrens Act recommended by the American Bar Association. This book contains a complete text of that act. It contains cross-references under each section to the corresponding sections of all Torrens acts now in operation in this country. It contains references under each section to all decisions in any state in this country in which a similar section of a Torrens act has been questioned, stating what were the facts and decisions in those cases. It contains a complete set of special court rules devised to assist in administering that law. It contains a set of blank forms for each step in the proceeding from beginning to end. It contains a review in twelve chapters covering seventy pages of the purposes, plan, operation, and advantages of the system, its history, its struggles, its opponents, their arguments, their methods. It is the *tout ensemble*, the *vade mecum* of the advocate of the coming system of land title registration.

The work of the author in procuring the adoption of this law in his state demands attention. Since its first introduction in this country he has preached this crusade with zeal and steadfast determination, from platform and printed page, in newspapers, trade journals, conventions, and wherever he could get a hearing. He urged it before the Virginia State Bar Association in 1899. He procured a joint resolution of the Virginia General Assembly in 1901 appointing a commission to draft such a law, of which he was made chairman. At the next General Assembly his first bill was introduced, meanwhile having procured the provision for such a law in the new draft of the constitution then being made. He brought the matter up again at the meeting of the Virginia State Bar Association at Hot Springs, in 1903. The American Bar Association being then in session there, he with others obtained the appointment of a committee to draft a uniform law for all the states, of which the present law is the finished product, after much discussion and amendment. At every session of the General Assembly of Virginia since 1903 he has had a Torrens bill presented. At each revival new disciples have flocked to his standard. The gathering host has at last overwhelmed the united opposition of inertia, ignorance, prejudice against anything new, and the intrigues of those interested in profiting by the expense attending land transfer under the old order. Mr. Richard E. Byrd says of the author:

"Some years ago I heard Mr. Massie, from his seat in the House of Delegates, deliver in advocacy of his bill embodying the principles of the Tor-

rens System, the most powerful and eloquent argument I have ever listened to on the floor of either house."

His labors having culminated in the adoption of the law, would he now leave his ward to the mercy of its enemies? No. The work is just begun. The acceptance of the law merely opens the opportunity to put it into operation. This handbook is his benediction and God speed.

This Uniform Torrens Act has just been presented to the Michigan Legislature now in session, backed by the committee of the American Bar Association on uniform laws. Similar bills have been before our legislature at every session for the past ten years. They have had able advocates and strong backing; as strong as it is possible to get for an act from which only the general public would profit, and on which the general public is ignorant. The united opposition of those who profit by the existing order has always been successful in this state to the present time.

Why should we permit the private interest of abstract makers to prevent a public good? Why should we not enable persons desiring a perfect title to land to have it, even if giving it does somewhat curtail the incomes of those who make a business of furnishing abstracts? Why should not the members of the bar insist that they be permitted to help land-owners perfect their titles, even if such owners would never need another abstract?

Jones has \$10,000 in bank stock. Smith has \$10,000 worth of land. Jones can sell his property and make almost no expense in the transfer. Production of his certificate is all the proof of title he needs. If Smith would sell his he must wait for and pay for an abstract, which any well informed lawyer will tell the buyer is never dependable and merely secondary evidence of title; and for his doubtful title Smith is paid accordingly. If Jones wants to borrow \$6,000 for ten days he can do it by merely depositing his certificate at the bank as collateral. Smith can't do that; it would take him a good part of the ten days, perhaps more, to make his *prima facie* showing to title. The expense of the pledge would be much more than the interest. Why should not the transfer of land be made as simple and easy as the transfer of goods? What would happen to commerce if every transfer of goods had to be accompanied by a complete history of title to them? What would happen to the commerce in land if transfers of it were made as simple and easy as transfers of certificates of stock? When I am given a worn dime in change, I sometimes wonder what has been its varied history; but that history does not worry me as to my title to the dime.

The Torrens System is no longer an experiment. Wherever it has been adopted it has stayed. Wherever tried it is never abandoned. It always starts with local prejudice against it. A little experience always changes this into enthusiastic appreciation. When the law was first adopted in Massachusetts the directors of a large bank passed resolutions to make no loans on registered titles. Only three or four years later, on deciding to take a new location and put up an expensive building, the same board voted not to accept any offer till the title to the tract was registered, deeming it too risky to put so much money in an uncertain title. The principal deterrent now is the cost of getting into the system. Every year's experience wherever

it is tried sees an increase of the registered titles. In Illinois the system is applicable only to Cook County. Mr. Massie prints on page 26 a letter from Recorder J. F. Connery of Cook County showing the increased registry there from year to year, and that the registrations in 1916 will break all records. At the time of writing there were \$120,000,000 of registered lands in Chicago, in over 7,000 separate tracts.

J. R. R.

THE LAW AND THE PRACTICE OF MUNICIPAL HOME RULE, by Howard Lee McBain. New York: Columbia University Press. pp. xviii, 724.

Before the close of the nineteenth century four states of the Union had adopted constitutional provisions designed to give some measure of home rule to the cities within their borders. In the first decade of the twentieth century six more states incorporated such provisions in their constitutions. Still later, in 1912 to be exact, four more states committed themselves to the principle of local autonomy. Steps in this direction have been taken recently by a number of other states, and the public generally seems to be awakening to the need for preventing undue legislative interference with internal municipal affairs. In such a situation the appearance of this book is opportune. Its pages discuss the various constitutional provisions adopted in this country to secure home rule for municipalities, the problems raised thereby, and the solution of these problems by the legislatures and courts of the various states. The problems of each state are treated separately and the whole unified by frequent cross references.

The book is divided into two parts. Part I is concerned almost entirely with the history of legislative interference with cities and the various expedients in the way of constitutional provisions that were resorted to in order to restrain the legislatures from unwarranted interference therewith.

Part II, which comprises by far the greater part of the volume, deals with the home rule provisions of the constitutions of those states which have given autonomy to their cities, the problems that have arisen in connection with legislation and charter making thereunder, and the practice of the legislatures and the decisions of the courts engaged in solving such problems. The author appears to have made a careful search of the reports of each state involved for decisions bearing on the problems of home rule and has placed the results of his search before his reader with full enough statements of facts and quotations from opinions to enable the reader to appreciate the problems and to examine, analyze, and compare the decisions of the courts without frequent reference to the reports themselves. Having made long and careful study of the history and general development of the home rule movement, the author is in a position to point out the errors of the courts due to a too narrow view of the problems presented to them, and he does this frequently and well.

In the last chapter, entitled, "Some General Conclusions," the author gives his readers his expert opinion on the character of the constitutional provisions that should be adopted in order to secure the most effective home rule in cities. In this chapter are anticipated many of the difficulties that are

likely to confront the reformer who seeks to remedy by constitutional amendment the evils of unwarranted legislative interference with municipalities, and the discussion in this connection should prove invaluable to persons drafting such an amendment.

The American people, notwithstanding many disappointing experiences in the past, still hold an unwavering belief in the efficacy of general principles written into their constitutions with little or no careful working out of the rules and machinery by and through which the principles are to operate. Most reform movements suffer seriously by reason of this outstanding fault of the American people in government, and local autonomy has been no exception to the general rule. In his preface the author says: "It seems probable that few if any of the more recent constitutional provisions granting home rule powers have been framed with an accurate and detailed knowledge of the legal problems to which similar provisions have elsewhere given rise. If they have been drafted with such knowledge at hand, the least that can be said is that the authors of these provisions have been inexcusably short-sighted," and his account of the operation of the constitutional provisions for local autonomy is a narration of disappointments and failures.

If we exercised no more care and foresight in drafting our contracts than we do in preparing our laws and constitutions, America would be on a par with Algeria or Somaliland as a commercial nation. In preparing contracts we make a study of the situations in hand, try to forecast the result of each provision of the instruments; in making laws we rush ahead without any intimate or definite knowledge of the situations we seek to remedy, and disregarding the experience of other states and countries, trust to Heaven to guide us aright. In the present volume the author has presented an account, in convenient and interesting form, of the various experiments in this country in home rule, which ought to guide reformers and legislators around the pitfalls that have swallowed up the efforts of their brothers. Will they avail themselves of it? With little faith that our hope will be realized, we trust they will.

G. S.